



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/650,375	08/29/2000	Curtis Wong	MS150957.1	8539
27195 7590 10/12/2007 AMIN. TUROCY & CALVIN, LLP 24TH FLOOR, NATIONAL CITY CENTER 1900 EAST NINTH STREET CLEVELAND, OH 44114			EXAMINER HUYNH, SON P	
			ART UNIT 2623	PAPER NUMBER
			NOTIFICATION DATE 10/12/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket1@thepatentattorneys.com
hholmes@thepatentattorneys.com
osteuball@thepatentattorneys.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/650,375

Applicant(s)

WONG ET AL.

Examiner

Son P. Huynh

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 September 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☐ They raise the issue of new matter (see NOTE below);

(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-42,44 and 46-67.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.



Continuation of 3. NOTE: Amendments to the claims such as "...each containing an XML formatted block of data identifying...as an email attachment" in claims 1, 30, 46, or "that a first user has indicated a desire to record...transmitted from the first user to a second user... the at least one token is utilized to program a recording device associated with the second user to record the audio or audio/visual program represented by the token" in claim 15, or "containing an XML formatted block of data... from the first user... means for transmitting a copy of the token from the first user to a second user; means for utilizing the token to program a recording device associated with the first user to record the audio/visual program; and means for utilizing the copy of the token to program a recording device associated with the second user to record the ..." in claim 24, or "the selection criteria represents a desired recording..." in claim 32 change the scope of the claims and require further consideration and/or search.

With respect to Applicant's argument the cited art nowhere teaches that program information of any kind can be sent from a first user's computer to a second user's computer to facilitate recording the associated program on the second user's recording device (pages 17-18, bridge paragraph), the examiner recognizes these elements are not recited in the previously presented claims 40,42,44,51,59.

With respect to Applicant's argument regarding element "the remote computer utilizes at least two tokens to selectively combine at least two program segments based at least in part upon viewing characteristics of one or more users at the remote computer" (page 19, paragraph 2), the examiner respectfully traverses.

Claim 40 recites "recording system utilizes the plurality of tokens to selectively combine at least two of the plurality of program segments based at least in part upon viewing characteristics of a client system, viewing characteristics of the client system comprises at least one of age of viewer, time of day and type of show being viewed".

Ellis discloses recording segments of programs in storage of remote access device, storage at user television equipment or storage at the television distribution facility, etc. based on user selections or user preferences (see include, but are not limited to, figures 2a-5, paragraph 0107-0110, 0127-0129, 0163,0164, 0218-0222). Abecassis discloses using tokens to combine at least two of the plurality of program segments based at least in part upon viewing characteristics of the system, viewing characteristics of the client system comprises at least one of age of viewer, time of day and type of show being viewed (e.g., using segments information to combine at least two segments of program based at least viewing characteristic of the system such as whether the viewer choice the program, time of the data, or whether the viewer is a child or parent, etc. - see discussion on page 5 of the Final Office Action, mailed 7/19/2007).

Therefore, the combination of Ellis and Abecassis discloses elements "recording system utilizes the plurality of tokens to selectively combine at least two of the plurality of program segments based at least in part upon viewing characteristics of a client system, viewing characteristics of the client system comprises at least one of age of viewer, time of day and type of show being viewed".

For the reasons given above, rejections of previous presented claims are maintained as discussed in the Final Office Action, mailed 7/19/07 .